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II-A-025

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 9 1997

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL --
RETURN RECEIPT REQUESTED

Michael Snowman
Zebra Striping, Inc.
101 Pleasant Hill Road
Scarborough, ME 04074

RE: NOTICE OF VIOLATION: File No. AED/MSEB - 4719

Dear Mr. Snowman:

On March 3, 1997, authorized representatives of the United States Environmental Protection Agency (EPA) inspected motor vehicles owned and operated by Zebra Striping, Inc., located at 101 Pleasant Hill Road, Scarborough, Maine. The inspection was conducted to determine compliance with § 211 of the Clean Air Act (the Act), 42 U.S.C. § 7545, and the regulations issued thereunder (40 C.F.R. Part 80). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

Section 211(g)(2) of the Act prohibits any person from introducing, or causing or allowing the introduction into any motor vehicle diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05% after October 1, 1993. This law subjects violators to a maximum civil penalty of \$25,000 per day for each violation and the amount of the economic benefit or savings resulting from the violation.

As a result of our inspection, EPA has determined that diesel fuel having a sulfur content in excess of the sulfur standard was introduced into the fuel tanks of two different Zebra Striping, Inc. trucks described in the enclosure to this Notice, in violation of section 211(g)(2) of the Act. Therefore, Zebra Striping, Inc. is liable for two misfueling violations.

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of such violation and the economic benefit or savings resulting from the violation. We propose a civil penalty for the violations alleged in this Notice of \$3,000. In determining the appropriate penalty, we consider the gravity of the violations, the economic benefit or savings resulting from the violations, the size of the business, history of compliance with the Clean Air Act, actions taken to remedy the violations and to prevent recurrence, the effect of the penalty on the corporation's ability to continue in business and such other matters as justice may require.

We encourage settlement of such matters. The settlement process provides substantial flexibility for reducing the statutory penalty, particularly if the alleged violations are corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

Please contact the following EPA official, who has been assigned to this case:

David J. Gottfried, Esquire
U.S. Environmental Protection Agency
Mobile Source Enforcement Branch
Air Enforcement Division (2242A)
401 M Street, S.W.
Washington, D.C. 20460
Telephone: (202) 564-1019

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

Bruce C. Buckheit

Bruce C. Buckheit, Director
Air Enforcement Division

ENCLOSURE

High sulfur diesel fuel with visible evidence of red dye was introduced into the following vehicles:

Registration # ME498762

Registration # ME434399